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*Attorneys for Southwest Airlines
Co. Welfare Benefit Plan, incorrectly
named as Southwest Airlines Co.
Funded Welfare Benefit Plan*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

G. DALLAS NORTON & ASSOCIATES,

| Case No.: 2:15-cv-01693-JCM-NJK

Plaintiff,

VS.

CYNTHIA HARRIS, an individual, LINCOLN FINANCIAL GROUP, THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, CIGNA GROUP INSURANCE, LIFE INSURANCE COMPANY OF NORTH AMERICA, SOUTHWEST AIRLINES CO. FUNDED WELFARE BENEFIT PLAN, AMERICAN MEDICAL RESPONSE, FREMONT EMERGENCY SERVICES, RADIOLOGY ASSOCIATES OF NEVADA, ST. ROSE DOMINICAN – SAN MARTIN CAMPUS, ALIGN CHIROPRACTIC CENTENNIAL GROUP, ANTHEM CHIROPRACTIC, SELECT PHYSICAL THERAPY, PERSONAL PRIMARY CARE, P.C., LAS VEGAS RADIOLOGY, MEDICAL FUNDING RESOURCES,

**DEFENDANT SOUTHWEST AIRLINES
CO. WELFARE BENEFIT PLAN'S
ANSWER AND AFFIRMATIVE
DEFENSES**

Defendants.

Defendant, SOUTHWEST AIRLINES CO. WELFARE BENEFIT PLAN ("Plan"), incorrectly named as Southwest Airlines Co. Funded Welfare Benefit Plan, by and through their attorney, JOSHUA A. SLIKER, ESQ., of the law firm of BARRON & PRUITT, LLP, hereby answers Plaintiff's Amended Complaint in Interpleader as follows:

1. Upon information and belief, the Plan admits the allegations contained in Paragraph 1 of the Amended Complaint.

1 2. With respect to the allegations in Paragraph 2 of the Amended Complaint, the Plan
 2 admits only that Cynthia Harris (“Harris”) was a covered person under the Plan, which is self-funded
 3 and covered by the Employee Retirement Income Security Act of 1974 (“ERISA”), and that, to date,
 4 the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of Harris for injuries related
 5 to a personal injury accident that occurred on or about August 22, 2014 (“Accident”). The Plan has a
 6 first priority right of subrogation and reimbursement to the extent of benefits paid, regardless of
 7 whether Harris is made-whole by any recovery and notwithstanding attorney’s fees. See Exhibit A,
 8 Plan language, and Exhibit B, itemization of benefits paid, attached hereto respectively. The Plan is
 9 without sufficient knowledge or information to form a belief as to the truth of the remaining
 10 allegations contained in Paragraph 2 of the Amended Complaint, and therefore, denies these
 11 allegations.

12 3. The Plan is without sufficient knowledge or information to form a belief as to the
 13 truth of the allegations contained in Paragraph 3 of the Amended Complaint, and therefore, denies
 14 these allegations.

15 4. The Plan admits the allegations in Paragraph 4 of the Amended Complaint.

16 5. Upon information and belief, the Plan admits the allegations contained in Paragraph 5
 17 of the Amended Complaint.

18 6. The Plan is without sufficient knowledge or information to form a belief as to the
 19 truth of the allegations contained in Paragraph 6 of the Amended Complaint, and therefore, denies
 20 these allegations.

21 7. With respect to the allegations in Paragraph 7 of the Amended Complaint, the Plan
 22 admits only that Harris was a covered person under the Plan, which is self-funded and covered by
 23 ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of
 24 Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and
 25 reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any
 26 recovery and notwithstanding attorney’s fees. See Exhibit A, Plan language, and Exhibit B,
 27 itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws
 28 that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan’s
 right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient

knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 7 of the Amended Complaint, and therefore, denies these allegations.

8. With respect to the allegations in Paragraph 8 of the Amended Complaint, the Plan admits only that Harris was a covered person under the Plan, which is self-funded and covered by ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any recovery and notwithstanding attorney's fees. See Exhibit A, Plan language, and Exhibit B, itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan's right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 8 of the Amended Complaint, and therefore, denies these allegations.

9. With respect to the allegations in Paragraph 9 of the Amended Complaint, the Plan admits only that Harris was a covered person under the Plan, which is self-funded and covered by ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any recovery and notwithstanding attorney's fees. See Exhibit A, Plan language, and Exhibit B, itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan's right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 9 of the Amended Complaint, and therefore, denies these allegations.

10. With respect to the allegations in Paragraph 10 of the Amended Complaint, the Plan admits only that Harris was a covered person under the Plan, which is self-funded and covered by ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any

1 recovery and notwithstanding attorney's fees. See Exhibit A, Plan language, and Exhibit B,
 2 itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws
 3 that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan's
 4 right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient
 5 knowledge or information to form a belief as to the truth of the remaining allegations contained in
 6 Paragraph 10 of the Amended Complaint, and therefore, denies these allegations.

7 11. With respect to the allegations in Paragraph 11 of the Amended Complaint, the Plan
 8 admits only that Harris was a covered person under the Plan, which is self-funded and covered by
 9 ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of
 10 Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and
 11 reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any
 12 recovery and notwithstanding attorney's fees. See Exhibit A, Plan language, and Exhibit B,
 13 itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws
 14 that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan's
 15 right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient
 16 knowledge or information to form a belief as to the truth of the remaining allegations contained in
 17 Paragraph 11 of the Amended Complaint, and therefore, denies these allegations.

18 12. With respect to the allegations in Paragraph 12 of the Amended Complaint, the Plan
 19 admits only that Harris was a covered person under the Plan, which is self-funded and covered by
 20 ERISA, and that, to date, the Plan has paid benefits in the amount of at least \$9,124.56 on behalf of
 21 Harris for injuries related to the Accident. The Plan has a first priority right of subrogation and
 22 reimbursement to the extent of benefits paid, regardless of whether Harris is made-whole by any
 23 recovery and notwithstanding attorney's fees. See Exhibit A, Plan language, and Exhibit B,
 24 itemization of benefits paid, attached hereto respectively. The Plan further avers that any state laws
 25 that any other parties to this action, or their attorneys, may rely upon to attempt to impede the Plan's
 26 right of subrogation and reimbursement are preempted by ERISA. The Plan is without sufficient
 27 knowledge or information to form a belief as to the truth of the remaining allegations contained in
 28 Paragraph 12 of the Amended Complaint, and therefore, denies these allegations.

13. The Plan is without sufficient knowledge or information to form a belief as to the

1 truth of the remaining allegations contained in Paragraph 13 of the Amended Complaint, and
 2 therefore, denies these allegations.

3 14. With regard to the unnumbered paragraph following Paragraph 13 of the Amended
 4 Complaint, beginning with “WHEREFORE,” and all sub-parts, the Plan does not believe these
 5 paragraphs require an answer, but to the extent an answer is required, the Plan avers that Harris was
 6 a covered person under the Plan, which is self-funded and covered by ERISA, and that, to date, the
 7 Plan has paid benefits in the amount of at least \$9,124.56 on behalf of Harris for injuries related to
 8 the Accident. The Plan has a first priority right of subrogation and reimbursement to the extent of
 9 benefits paid, regardless of whether Harris is made-whole by any recovery and notwithstanding
 10 attorney’s fees. See Exhibit A, Plan language, and Exhibit B, itemization of benefits paid, attached
 11 hereto respectively. The Plan further avers that any state laws that any other parties to this action, or
 12 their attorneys, may rely upon to attempt to impede the Plan’s right of subrogation and
 13 reimbursement are preempted by ERISA. To the extent there are any remaining allegations in the
 14 unnumbered Paragraph following Paragraph 13 of the Amended Complaint, the Plan denies them.

15 15. Any allegations contained in the Amended Complaint which have not been admitted,
 16 modified or denied are hereby denied as if separately and specifically denied.

AFFIRMATIVE DEFENSES

16 1. The Plan avers that Harris was a covered person under the Plan, which is self-funded
 17 and covered by ERISA, and that, to date, the Plan has paid benefits in the amount of at least
 18 \$9,124.56 on behalf of Harris for injuries related to the Accident. The Plan has a first priority right
 19 of subrogation and reimbursement to the extent of benefits paid, regardless of whether Harris is
 20 made-whole by any recovery and notwithstanding attorney’s fees. See Exhibit A, Plan language, and
 21 Exhibit B, itemization of benefits paid, attached hereto respectively.

22 2. The Plan avers that any state laws that the other parties to this action, or their
 23 attorneys, may rely upon to attempt to defeat the Plan’s right of subrogation and reimbursement are
 24 preempted by ERISA.

25 3. The Plan reserves the right to assert further affirmative defenses as they become
 26 evident through investigation or discovery.

WHEREFORE, the Plan prays that the Court award it full reimbursement to the extent of benefits paid on behalf of Cynthia Harris.

DATED this 28th day of September, 2015.

BARRON & PRUITT, LLP

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1 **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28th day of September, 2015, I served the foregoing
DEFENDANT SOUTHWEST AIRLINES CO. WELFARE BENEFIT PLAN'S ANSWER
AND AFFIRMATIVE DEFENSES as follows:

- 5 US MAIL: by placing the document(s) listed above in a sealed envelope, postage
 prepaid, in the United States Mail at Las Vegas, Nevada, addressed to Cynthia Harris only.
- 7 BY FAX: by transmitting the document(s) listed above via facsimile transmission to
 the fax number(s) set forth below.
- 9 BY HAND-DELIVERY: by hand-delivering the document(s) listed above to the
 address(es) set forth below.
- 11 BY EMAIL: by emailing the document(s) listed above to the email address(es) set forth
 below.
- 13 BY ELECTRONIC SERVICE: by electronically serving the document(s) listed above
 with the U.S. District Court's CM/ECF system upon the following:

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Defendant Pro Se
Via mail only

4 /s/ Jill L. Williams

5 An Employee of BARRON & PRUITT, LLP

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